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APPLICANT : Thomas Fiedler
SERIAL NO. : 09/734,826 EXAMINER : V. Paul Harper
FILED : December 11, 2000 ART UNIT : 2654
FOR : SPEECH COMMAND-CONTROLLABLE ELECTRONIC APPARATUS
PREFERABLY PROVIDED FOR CO-OPERATION WITH A DATA
NETWORK

APPEAL BRIEF TRANSMITTAL LETTER

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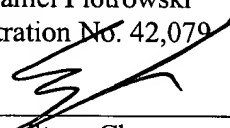
Dear Sir:

Appellants respectfully submit three copies of a Brief For Appellants that includes an Appendix with the pending claims. The Appeal Brief is now due on June 14, 2004.

Appellants enclose a check in the amount of \$330.00 covering the requisite Government Fee.

Should the Examiner deem that there are any issues which may be best resolved by telephone communication, kindly telephone Applicants undersigned representative at the number listed below.

Respectfully submitted,
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Patent Appeals and Interferences

In re the Application

Inventor : Thomas Fiedler
Application No. : 09/734,826
Filed : December 11, 2000
**For : SPEECH COMMAND-CONTROLLABLE
ELECTRONIC APPARATUS PREFERABLY
PROVIDED FOR CO-OPERATION WITH A DATA
NETWORK**

APPEAL BRIEF

On Appeal from Group Art Unit 2654

Date: June 8, 2004

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I. REAL PARTY IN INTEREST

The real party in interest is the assignee of the present application, U.S. Philips Corporation, and not the party named in the above caption.

II. RELATED APPEALS AND INTERFERENCES

With regard to identifying by number and filing date all other appeals or interferences known to Appellant which will directly effect or be directly affected by or

have a bearing on the Board's decision in this appeal, Appellant is not aware of any such appeals or interferences.

III. STATUS OF CLAIMS

Claims 1-6 have been presented for examination. All of these claims are pending, stand finally rejected, and form the subject matter of the present appeal.

IV. STATUS OF AMENDMENTS

No amendments have been made. The after-final reply is a request for reconsideration filed on March 12, 2004.

V. SUMMARY OF THE INVENTION

A user-interactive terminal can retrieve, as from the Internet (page 5, line 30: “Internet”), information responsive to user voice commands, e.g., spoken sentences/phrases, and display the requested information (page 5, line 11 – page 6, line 7).

An enhancement, according to the invention, places speech signal input means 4 and picture recording means 31 on the same automatically, vertically, translatable platform or “halting means” 3 (FIG. 2; page 6, lines 29-32).

Operationally, adjusting means 28 translate the halting means 3 vertically along guide means 25 whenever it is determined from the input of picture recording means 31 that the location of a particular body area in the recorded image deviates from a nominal range XY (page 3, lines 24-26; page 7, lines 22-28). For example, when the head of a user is detected in the image recorded by the picture recording means 31 to lie within a

nominal range XY, as shown in FIG. 2, the user's mouth is determined to be well-placed with respect to the microphone or speech signal input means 4, so that spoken commands are clearly received (FIG. 2).

If, on the other hand, the head deviates from the nominal range XY, the halting means 3 is translated vertically to restore the microphone 4 in position for clear reception of the user's speech (page 7, line 28 - page 8, line 4).

VI. ISSUES

A. Whether claims 1-5 are obvious under 35 U.S.C. 103(a) over U.S. Patent No. 4,961,177 to Uehara in view of Japanese Patent JP 411249227A to Shirai et al. ("Shirai") and German Patent DE 4028670 A1 to Schaffrina; and

B. Whether claim 6 is obvious under 35 U.S.C. 103(a) over Uehara in view of Shirai, Schaffrina and "Touchscreens now offer compelling uses" by Schneiderman.

VII. GROUPING OF CLAIMS

Claims 1-6 all stand or fall together.

VIII. ARGUMENT

As acknowledged in item 1 of the Final Office Action, Uehara fails to disclose or suggest:

An electronic apparatus (1) . . . including halting means (3) to which the speech signal input means (4) are mechanically connected, . . . characterized in that . . . picture recording means (31) are provided which are mechanically connected to the halting means . . . consequently, the connected speech signal input means and picture recording means (31) can be driven by the picture evaluation means (33) to adjust the picture recording means (31) so that the recorded body area lies within the nominal range (XY).

Uehara further fails to disclose or suggest:

. . . picture evaluation means (33) are provided by which can be established whether the recorded body area lies within a nominal range (XY) and in that in the event of deviations of the position of the recorded body area relative to the nominal range (XY) the adjusting means (28) are provided for adjusting the halting means (3) and, consequently, the connected speech signal input means and picture recording means (31) can be driven by the picture evaluation means (33) to adjust the picture recording means (31) so that the recorded body area lies within the nominal range (XY).

Item 1 of the Final Office Action suggests that the above, latter-quoted limitation of claim 1 is disclosed in between line 41 of column 2 and line 11 of column 3 in Uehara.

This passage, however, merely mentions that the Uehara servomechanism 14 points the microphone 12 somewhere within a range (col. 2, line 47: “range”) that spans all possible microphone directions. There is no disclosure or suggestion of “in the event of deviations . . . relative to the nominal range (XY) . . . adjusting . . . to adjust the picture recording means (31) so that the recorded body area lies within the nominal range (XY)” as explicitly required by the language of claim 1.

Shirai merely moves a camera fixing section 72 to deliver the uppermost point of the user’s image to an “object set position” (abstract, last sentence: “object set position”).

The Schaffrina user panel is manually manipulated by the user “to suit the user.”

In view of the above, Shirai and Schaffrina, alone or in combination, cannot make up for the deficiencies in Uehara.

In particular, the proposed combination of prior art references fails to disclose, suggest or feature:

... picture evaluation means (33) are provided by which can be established whether the recorded body area lies within a nominal range (XY) and in that in the event of deviations of the position of the recorded body area relative to the nominal range (XY) the adjusting means (28) are provided for adjusting the halting means (3) and, consequently, the connected speech signal input means and picture recording means (31) can be driven by the picture evaluation means (33) to adjust the picture recording means (31) so that the recorded body area lies within the nominal range (XY)

as explicitly required by the language of claim 1.

For at least this reason, the proposed combination of prior art references fails to render obvious the invention as recited in claim 1.

The Advisory Action, in purported response, points out that the Uehara picture processor 24 obtains information relating to the position of the person’s mouth and supplies that information to the controller.

It is unclear how this statement could be considered responsive in any substantive sense, at least because the statement sheds no light on how it fairly could be said that Uehara, or any of the other applied references, alone or in combination, discloses or suggests “in the event of deviations . . . relative to the nominal range (XY) . . . adjusting .

... to adjust the picture recording means (31) so that the recorded body area lies within the nominal range (XY).” In particular, there is no disclosure or suggestion of the “nominal range” or of “adjusting” “in the event of deviations” from the “nominal range.””

If, for example, Uehara detects a person’s mouth and then always moves the camera to the center of the detected mouth, there is no disclosure or suggestion of the “nominal range” or of “adjusting” “in the event of deviations” from the “nominal range.””

Item 2 of the Advisory Action also suggests that the applicant is attacking references individually, but provides no guidance as to how combination of any two or more of the references suggests or gives rise to something not disclosed or suggested in any one of the references. Specifically, it is unclear how the “nominal range” springs into being or what about combining any of the references leads one to perform the “adjusting” “in the event of deviations” from the “nominal range.”” It seems as if the Examiner is trying to bypass these “troublesome” claim limitations as if they did not exist.

In particular, the proposed combination of prior art references fails to disclose, suggest or feature:

... picture evaluation means (33) are provided by which can be established whether the recorded body area lies within a nominal range (XY) and in that in the event of deviations of the position of the recorded body area relative to the nominal range (XY) the adjusting means (28) are provided for adjusting the halting means (3) and, consequently, the connected speech signal input means and picture recording means (31) can be driven by the picture evaluation means (33) to adjust the picture recording means (31) so that the recorded body area lies within the nominal range (XY)

as explicitly required by the language of claim 1.

For at least this reason, the proposed combination of prior art references fails to render obvious the invention as recited in claim 1.

Moreover, the Uehara apparatus is configured to interface with a speaking person without requiring the person to use his or her hands (col. 5, lines 20-22: “even when both hands are occupied, easy entry of an ID number or any other information can be achieved by speaking”; FIG. 1 (no keyboard or keypad); FIG. 2). The system functions automatically with the only user intervention being speech (col. 4, line 29 – col. 5, line 4).

Item 1 of the Final Office Action says, in effect, that the Shirai automatic adjusting of a camera vertically would have suggested a similar automatic vertical adjustment to the camera 22 in FIG. 2 of Uehara, but acknowledges that the combination would still not feature vertical movement of the Uehara microphone 12. To make up for the deficit, Schaffrina is cited, which is directed to a video telephone box having a user panel including a screen and video camera. A microphone is located on either side of the screen. The height of the user panel may be adjusted to suit the user. The user panel allows inputs in the form of push button selections. It is clear from this description and the drawing that the user panel is manually adjusted by the user to match his or her height. By contrast, and as mentioned above, Uehara deals with a system that operates automatically without user intervention other than speech. It is not clear how Schaffrina can be fairly said to teach detachment of the Uehara microphone 12 from its tilting servo

mechanism and movement of the detached microphone into fixed connection with the movable camera.

Uehara, in fact, teaches away from the idea of modifying its microphone configuration. Although Uehara recognizes that voice recognition is a developing area (col. 1, lines 50-52), and that its voice recognition technology may require the speaker to repeat words and to enunciate more slowly (col. 4, lines 53-56), Uehara reveals not the slightest hint that its microphone 12 of sharp directivity is other than optimal (col. 3, lines 41-43: “Control of the direction of the microphone 12, is one of the distinctive features of the present apparatus”; col. 5, lines 11-20: “According to the present apparatus, the microphone 12 with a sharp directivity can be effectively directed toward the mouth of the person C, thereby resulting in reliable collection of the speech made by the person at a high S/N ratio. The sharply directional microphone 12 used herewith can be provided at a distance from the person C without any loss in S/N ratio. Consequently, the person can speak unaffected by the presence of the microphone 12, and the person will not feel that he is forced to speak to the system.”)

Item 5 of the Final Office Action suggests that the latter sentence in Uehara would have motivated the skilled practitioner to place the microphone “on either side” (Schaffrina, abstract) of the screen in view of Schaffrina, so that the user would not feel he or she is being tracked. However, as the user approaches the mechanism, the mechanism will track them, whether it is a vertical movement of the proposed combination or of the Uehara/Shirai tilting movement.

In contrast to Uehara's touting of the optimality of its microphone configuration, Schaffrina suggests that its microphones are located "on either side" of the screen, a camera is concealed behind the screen ("Detailed Description"; sixth paragraph), and the height of the user panel embodying the screen may be adjusted by user to suit the user. Since the camera is concealed, presumably then the user either adjusts the panel's vertical location so that either the screen is in optimal visual range, i.e., vertically centered about the user's face, or so that the microphone is in optimal vocal range, i.e., vertically aligned with the user's mouth, or, alternatively, reach some compromise between the two panel positions. The user cannot achieve both optimizations simultaneously, because this would place the microphone at the bottom the screen, whereas Schaffrina specifies that the microphone is disposed "on either side" of the screen. It follows that Schaffrina fails to disclose or suggest that both the camera and microphone, while fixed to the same vertical translator, can be simultaneously positioned optimally. Therefore, it appears that item 1 of the Final Office Action is suggesting that motivation would have existed to sacrifice Uehara optimality, assuming one is not selectively ignoring Uehara's claim of optimality, by modifying Uehara or Uehara/Shirai in view of Schaffrina.

What in any of the applied prior art references, alone or in combination, would have shown, suggested or given even the slightest hint to one of ordinary skill in the art that fixing both the camera and the microphone to the same vertical translator could be made to improve on Uehara's touted optimality?

At page 4, item 1 of the Final Office Action offers, by way of explanation, that "it was well-know that closer proximity of both a camera and a microphone will improve the

quality of the data obtained by each device.” Proximity to what? Presumably the Examiner is referring to “proximity to the subject,” not to proximity between the camera and the microphone. It is unclear how moving the camera and the microphone closer to the subject, albeit not so close as to produce microphone noise, magically puts the camera and microphone on the same vertically translatable platform. In particular, having modified Uehara in view of Shirai, what would have motivated one of ordinary skill in the art to, in view of Schaffrina, relocate the microphone onto the same vertically movable platform as the camera? Impermissible hindsight of an Examiner who has looked at FIG. 1 and/or 2 of the present invention’s disclosure.

In determining the differences between the prior art and the claims, the question under **35 U.S.C. 103** is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983) MPEP 2141.02.

A prior art reference must be considered in its entirety, i.e., as a whole, including portions **that would lead away from the claimed invention**. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983) MPEP 2141.02 <bold font added for emphasis>.

Since the primary reference, Uehara, teaches away from the modification proposed, the proposed Uehara/Shirai/Schaffrina combination would not have been obvious, and, as set forth above, would in any event not meet the limitations of claim 1.

The Advisory Action, in purported response to the above commentary, continues to ignore the analysis presented. In item 3, for example, in supposedly addressing the above comments regarding the lack of suggestion for detaching the Uehara microphone and moving it into fixed connection with the movable camera, the Advisory Action again

alleges that applicant is attacking the references individually, but gives no clue as to how combining the references suggests more than the references viewed individually.

Item 4 of the Advisory Action tries to minimize the importance of the discussion in Uehara that teaches away from the idea of modifying its microphone configuration. As stated above, Uehara says, starting at column 5, line 11, “According to the present apparatus, the microphone 12 with a sharp directivity can be effectively directed toward the mouth of the person C, thereby resulting in reliable collection of the speech made by the person at a high S/N ratio. The sharply directional microphone 12 used herewith can be provided at a distance from the person C without any loss in S/N ratio.”

The response in item 4 of the Advisory Action is the Uehara “does not state that the disclosed configuration is optimal, nor that there is not some other way to obtain better results.” It appears, however, that an inventor of a mechanical system will not often have the temerity to proclaim that his/her system is “optimal.” Moreover, whether or not there exists, as item 4 states “some other way to obtain better results” is only relevant in the context of whether that “some other way to obtain better results” would have been obvious. Accordingly, it is believed that the commentary in item 4 of the Advisory Action is non-responsive to the analysis by the applicant that Uehara, in fact, teaches away from the idea of modifying its microphone configuration.

Items 5 and 6 of the Advisory Action are likewise regarded as non-responsive.

IX. CONCLUSION


In view of the above analysis, it is respectfully submitted that the referenced teachings, whether taken individually or in combination, fail to anticipate or render

obvious the subject matter of any of the present claims. Therefore, reversal of all outstanding grounds of rejection is respectfully solicited.

Respectfully submitted,

Daniel J. Piotrowski
Registration No. 42,079

Date: June 8, 2004

By: 
Steve Cha
Attorney for Applicant
Registration No. 44,069

X. APPENDIX: THE CLAIMS ON APPEAL

1. An electronic apparatus (1) comprising functions which may be activated by control commands of which each one is formed at least by one spoken word from a user of the apparatus (1), and including speech signal input means (4) for inputting speech signals into the apparatus (1) which represent the spoken speech commands and including control means (14) connected to the speech signal input means (4) by which control means (14) can be generated control data (CD2) representing a speech command, and including halting means (3) to which the speech signal input means (4) are mechanically connected, so that the speech signal input means (4) in the presence of a user take up a certain position relative to the user's mouth, characterized in that the apparatus (1) includes guide means (25) by which the halting means (3) are at least in essence guided in vertical direction and in that the apparatus (1) includes adjusting means (28) by which the halting means (3) can be adjusted along the guide means (25), and in that picture recording means (31) are provided which are mechanically connected to the halting means (3) and by which a certain body area of a user can be recorded, and in that picture evaluation means (33) are provided by which can be established whether the recorded body area lies within a nominal range (XY) and in that in the event of deviations of the position of the recorded body area relative to the nominal range (XY) the adjusting means (28) are provided for adjusting the halting means (3) and, consequently, the connected speech signal input means and picture recording means (31) can be driven by the picture evaluation means (33) to adjust the picture recording means (31) so that the recorded body area lies within the nominal range (XY).

2. An apparatus (1) as claimed in claim 1, characterized in that the apparatus (1) additionally includes speech signal output means (5) for delivering speech signals and in that the speech signal output means (5) are mechanically connected to the halting means (3).

3. An apparatus (1) as claimed in claim 1, characterized in that the apparatus (1) includes input means (9) for inputting alphanumerical signs and in that the input means (9) are mechanically connected to the halting means (3).

4. An apparatus (1) as claimed in claim 1, characterized in that the apparatus (1) includes a communication station (8) for contact-bound communication with a contact-bound chip card and in that the communication station (8) is mechanically connected to the halting means (3).

5. An apparatus (1) as claimed in claim 1, characterized in that the apparatus (1) includes display means (9) for displaying data and in that the display means (9) are mechanically connected to the halting means (3).

6. An apparatus (1) as claimed in claim 5, characterized in that virtual input means can be realized with the display means (9).